

Court of Appeals, State of Michigan

ORDER

In Re Gary Earl Leiterman, LPN RN

Docket No. 254033

LC No. 2002-000640

Jessica R. Cooper
Presiding Judge

Richard A. Bandstra

Kirsten Frank Kelly
Judges

This case is before this Court following the second remand to the Board of Nursing Disciplinary Subcommittee (BNDS) to allow the Board to articulate the reasons and supporting evidence for its determination to place Gary Earl Leiterman on probation. Upon this Court's review of the BNDS's November 2, 2005 order, we find that the BNDS has now provided adequate reasons to support its determination. Accordingly, we AFFIRM the November 2, 2005 order.

These lengthy proceedings could have been avoided had the BNDS articulated its reasons for placing Mr. Leiterman on probation with further restrictions in the first instance. Notwithstanding the BNDS's position that they were unable to comply with this Court's order because they respectfully disagreed with our interpretation, this Court specifically found that the BNDS's final opinion was inconsistent with the administrative law judge's (ALJ) proposed final decision. Accordingly, this Court has ruled that the BNDS **must** comply with 1999 AC R, 338.1630(5) and state its reasons for entering a final opinion inconsistent with the proposed decision of the ALJ. Absent a contrary finding from the Michigan Supreme Court, the rule will be henceforth so interpreted. This Court further notes that the final resolution of the subsequent disciplinary action taken against Mr. Leiterman, based upon his July 22, 2005 conviction of first-degree murder, may render the BNDS's current order moot.

We retain no further jurisdiction in this case.

Judge Kelly concurs in affirming the November 2, 2005 order.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

DEC 06 2005
Date

Sandra Schultz Mengel
Chief Clerk